

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SEAN A. FAIRWEATHER,	:	CIVIL ACTION NO. 4:24-CV-517
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
COMFORT SUITE AND INN	:	
and CHOICE HOTELS,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 28th day of June, 2024, upon consideration of the report (Doc. 10) of Magistrate Judge Susan E. Schwab, wherein Judge Schwab recommends that the court dismiss *pro se* plaintiff Sean A. Fairweather's amended complaint (Doc. 3) for failure to state a claim for which relief may be granted, insofar as (1) Fairweather purports to raise a claim under "Article 12 of the [C]onstitution" via 42 U.S.C. § 1983, even though no such article exists, and he fails to allege how any of the private corporate defendants acted under color of state law, (see Doc. 10 at 8-9); (2) he has failed to allege any facts relevant to any of the causes of action redressable under 42 U.S.C. § 1985, whether related to intimidation, conspiracy, efforts to prevent an officer from performing duties, or any class-based invidiously discriminatory animus, (see Doc. 10 at 9-10); and (3) in the absence of a viable federal claim, maintaining supplemental jurisdiction of his state-law claims is unwarranted, (see id. at 10-11), but further recommends that dismissal be without prejudice to his ability to file a second amended complaint to cure the foregoing deficiencies, and the court noting that no objections have been filed to date, see

FED. R. CIV. P. 72(b)(2), and further noting that failure of a party to timely object to a magistrate judge's conclusions "may result in forfeiture of *de novo* review at the district court level," Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should afford "reasoned consideration" to the uncontested portions of the report, E.E.O.C. v. City of Long Branch, 866 F.3d 93, 100 (3d Cir. 2017) (quoting Henderson, 812 F.2d at 879), in order to "satisfy itself that there is no clear error on the face of the record," FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the record, the court agreeing with Judge Schwab's analysis and recommendation, and concluding there is no clear error on the face of the record, it is hereby ORDERED that:

1. Magistrate Judge Schwab's report (Doc. 10) is ADOPTED.
2. Fairweather's amended complaint (Doc. 3) is DISMISSED without prejudice.
3. Fairweather is granted leave to file a second amended complaint in conformity with Judge Schwab's report within 21 days of the date of this order. In the absence of a timely filed second amended complaint, the Clerk of Court shall close this case.
4. This case is REMANDED to Judge Schwab for all further pretrial proceedings including report and recommendation on dispositive motions.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner
United States District Judge
Middle District of Pennsylvania